



293/037 Cont. 3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicants : Alex A. Peterson et al.
Application No.: 10/637,213 Confirmation No.: 4084
Filed : August 7, 2003
For : MEDICAL GRAFT CONNECTOR AND METHODS OF
MAKING AND INSTALLING SAME
Group Art Unit : 3734
Examiner : Diane D. Yabut

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

November 13, 2006

REPLY TO OFFICE ACTION

Sir:

This Reply is submitted in response to the September 12, 2006 Office Action on the above-captioned patent application. Reconsideration of this application in light of this Reply and the accompanying Declaration of Todd A. Berg Pursuant to 37 C.F.R. § 1.132 is hereby respectfully requested.

Claims 83-90 (the only claims remaining in this application) have been rejected under 35 U.S.C. § 102(e) as anticipated by Berg et al. U.S. patent 6,391,036 ("the '036 patent"). However, the Office Action points out that this rejection can be overcome by a showing under 37 C.F.R.

§ 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another."

In view of the foregoing, applicants are submitting the accompanying Declaration of Todd A. Berg Pursuant to 37 C.F.R. § 1.132. As the Berg Declaration establishes, Mr. Berg was, at all relevant times, the person in charge of research and development at the Company that employed Mr. Berg and all of the other inventors named on the present application, the present application's ultimate parent ("the '335 application"), the '036 patent, and that patent's ultimate parent application ("the '721 application"). All of the people named as inventors on all of these filings (in addition to Mr. Berg himself) did all of their relevant work under Mr. Berg's direction. Mr. Berg states from his own personal knowledge that anything claimed in the present application that is also shown in the '721 application (and therefore the '036 patent) was derived from the inventors of the present application.

The foregoing demonstrates that anything shown in the '036 patent that is now claimed in the present application was not the invention "by another," but rather was derived from the inventors named on the present application. The '036 patent is therefore not prior art to the present application under 35 U.S.C. § 102(e). The

§ 102(e) rejection of claims 83-90 should accordingly be withdrawn, with consequent allowance of this application.

Reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Robert R. Jackson", written in black ink.

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